

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

CASE SCHEDULING ORDER

WHEREAS, the Court having conducted a Scheduling Conference in the above-captioned case on _____, 2014 and having conferred with counsel representing the parties,

IT IS ORDERED this _____ day of _____, 2014 that the following will control all future events in the case until trial. Any amendments or modifications to the event deadlines established in this Order will require Court approval.

<u>Event</u>	<u>Date</u>
Trial Date (Jury/Non-Jury/Number of Days)	
Plaintiff's Identification of Experts and Opinions	
Defendant's Identification of Experts and Opinions	
Discovery Cutoff (Fact and Expert)	
Status Conference	At Counsel's Request
Filing of Dispositive and <i>Daubert</i> Motions	
Mediation Deadline	
Filing of Pretrial Stipulation and Motions in Limine	
Pretrial Conference	

/s/ Mary M. Johnston

Judge Mary M. Johnston

Original to Prothonotary
cc: Counsel of Record

Experts. Plaintiff shall have 30 days from the date Defendant's expert opinions are provided to designate a rebuttal expert and must provide a copy of that expert's report no later than 30 days before the discovery deadline established in the case. Failure to identify experts within the deadlines set forth above will be a sufficient basis to exclude that expert from testifying at trial unless counsel can set forth good cause why the designation did not take place and the opinion was not provided.

Discovery. The Court will not consider an extension of this deadline without prior approval of the Court.

Case Dispositive Motions. All case dispositive motions may be scheduled by obtaining a date and time from the assigned Judge's secretary. Judge Johnston's motions are scheduled by Theresa McBrearty. She can be reached at 255-0668.

The original motion and the response thereto are filed with the Prothonotary's Office and a copy delivered to the assigned Judge. The motion and the response shall not exceed (4) pages in length and shall have a notice page indicating the date and time of the conference. The response is due **no later than four (4) days** prior to the conference date. No reply by the moving party is permitted.

Routine Civil Motions. Judge Johnston's weekly routine motion calendar is on Thursday at 9:00 a.m. Pursuant to Super. Ct. Civ. R. 78, motions must be filed **ten (10) days prior** to the noticed date for presentation. Responses are due **no later than four (4) days** prior to the motion date. If no response is filed within the deadline, the motion will be considered unopposed.

Mediation. The parties may be excused from mediation only by order of the Court. **All** parties must attend and participate in good faith, unless expressly excused by the mediator. Insurance adjusters with authority up to policy limits also must be present. Neither the fact nor the result of the mediation shall be admissible at trial. The mediation proceedings shall not be transcribed unless specifically authorized by the Court for good cause shown.

Pretrial Stipulation. The Stipulation shall, at a minimum, cover the matters set forth in Form 46 (pretrial stipulations) contained in the appendix of the Superior Court Civil Rules. Failure to comply with deadlines established in this order may result in the Court considering objections waived by the non-complying party and/or the imposition of appropriate sanctions.

Motions in Limine. All motions in limine are to be filed with the Court by the

date of the pretrial conference. The Court will not consider such motions filed after that date absent exceptional circumstances.

Jury Instructions. Counsel shall consult among themselves and attempt to agree upon appropriate jury instructions. On or before the established trial date set forth below, counsel shall provide to the Court an agreed upon set of instructions. If there are areas of disagreement, counsel shall present their respective proposed instructions and supporting authority. This order shall not prevent the parties from submitting additional proposed instructions that may be justified by the evidence presented at trial.

Special voir dire. On or before the third day prior to the trial date set forth below, counsel shall submit to the Court any special voir dire questions any party proposes to ask of the jury panel.

Firm Deadlines. The Court will enforce all deadlines. The Court will not be sympathetic to violations of Its deadlines caused by counsel's inadvertence, or by counsel's reliance on *ad hoc* agreements that are inconsistent with the Case Scheduling Order. The affected party is obliged to bring the matter to the Court's attention promptly. Otherwise, the Court is likely to deem any objection to the interference waived.

The trial date is FIRM. Trial will not be continued, even once, except under unforeseeable and truly exceptional circumstances. For example, discovery problems and previously unscheduled medical treatment are neither unforeseeable nor exceptional circumstances.

PLEASE REFER TO:

**SUPERIOR COURT NEW CASTLE COUNTY CIVIL CASE MANAGEMENT
PLAN ADOPTED FEBRUARY 17, 2000**

AND

**JUDGE JOHNSTON'S CIVIL CASE MANAGEMENT PREFERENCES
AVAILABLE ON THE SUPERIOR COURT WEBSITE.**